

**OFFICIAL MINUTES
STATE BAR OF TEXAS
EXECUTIVE COMMITTEE MEETING
Texas Law Center
Austin, TX
September 7, 2017**

The Executive Committee met on September 7, 2017, in Austin at the Texas Law Center. President Tom Vick called the meeting to order at 10:30 am, and Interim Executive Director John Sirman called the roll.

Present: Chair Rehan Alimohammad, Christy Amuny, Wendy Burgower*, Estrella Escobar, Immediate Past Chair Joe Escobedo*, Philip Mack Furlow*, Laura Gibson, Ann Greenberg, Angelica Hernandez, Justice Phil Johnson*, President-elect Joe Longley, Audrey Moorehead*, TYLA President-elect Sally Pretorius, TYLA President Baili Rhodes, Scott Rothenberg, Immediate Past President Frank Stevenson, Scott Stolley and President Tom Vick.

Excused absence: Gary Nickelson

Participating via teleconference: Greg Sampson, Tim Mountz*

**Nonvoting member*

I. APPROVAL OF MINUTES

Upon motion properly made by President Tom Vick and seconded by Estrella Escobar, the minutes of the March 9, 2017, Executive Committee meeting were approved as presented. [Exhibit A]

II. REPORTS

A. Report from the President:

President Tom Vick gave an update on his travels and activities since June, including the Local Bar Leaders Conference, the NCBP/ABA Annual Meeting in New York City, and Advanced Family Law in San Antonio. Vick related that the NCBP and Southern Conference of Bar Presidents provide opportunities for training and professional development through courses on topics such as planning for the future needs of lawyers and the legal profession, how to effectively lead a staff or a board of directors, how to respond to crises, how to use emerging technologies, and how to better serve the unmet legal needs of average citizens. The first calls of assistance President Vick received after Hurricane Harvey were from Southern Conference colleagues, and their bar associations have been quick to offer practical and financial help to Texas residents in the wake of the disaster.

President Vick reported that the State Bar of Texas is responding to Hurricane Harvey in multiple ways. The State Bar's toll-free disaster hotline serves as a gateway for getting disaster survivors legal assistance through local legal aid or pro bono programs. The State Bar has collected a number of valuable explanatory documents, assistance links, and how-to videos on its website at texasbar.com/disasters. The State Bar also is helping coordinate the attorney volunteer effort. The State Bar's Legal Access Division has collected the volunteers' information through an online form, texasbar.com/attorneyvolunteer. In addition to in-person legal clinics run by legal aid agencies and local bar associations, people can seek answers to basic questions at **Texas Legal Answers** (texaslegalanswers.org).

President Vick reported that he will be recommending the appointment of Ron Bunch to the State Commission on Judicial Conduct. The other appointments on the September board agenda will be to the Committee on Disciplinary Rules and Referenda.

President Vick reported that Austin lawyer Greg Gegenheimer's lawsuit against the State Bar over the minority director selection process had been dismissed and Gegenheimer's appeal deadline expired with no notice of appeal given. He thanked the work of the outside counsel Tom Leatherbury from Vinson & Elkins, which was provided at the insurance rate, with the remaining costs contributed pro bono as a service to the Bar. The resulting legislation provides that minority directors currently on the Board will serve out their terms, and be replaced by the new "at-large directors" when their

¹ Exhibits A through I are available at www.texasbar.com/bodcentral under Meeting Agendas and Minutes.

terms expire. The State Bar has issued a call for nominations of at-large directors. An Ad-Hoc Selection Committee of five board members will recommend four finalists to President Vick. Policy manual revisions dealing with this change will be on the agenda for the September 22 board meeting.

President Vick reported that the Executive Director Search Committee planned to interview nominees on September 5th and recommend an Executive Director nominee to the Executive Committee today, but due to concern about the impact of Hurricane Harvey on the safety and travel of the candidates and the Committee members the interviews were postponed until September 11. The Committee will bring a nominee to the board for consideration in Lubbock. The Evaluation Subcommittee will meet after the Executive Committee meeting to discuss employment terms for the potential candidate.

B. Report from the Chair of the Board:

Chair of the Board Rehan Alimohammad reported that he will be introducing new board members to the board communications initiatives at this month's meeting. Board members will continue to reach out to local bar associations and offer a "State Bar of Texas Update" CLE presentation. The communications staff is updating the board presentation materials with the latest on the State Bar's resources for disaster relief in response to Hurricane Harvey. This includes the disaster hotline for the public and multiple online resources for attorneys and the public. During October, letters will be sent to constituents from the directors in each district. The feedback we receive from our constituents is helpful, and this is a great way for the Bar to actively reach out to the lawyers. Members will receive a communications packet with detailed instructions on constituent communication.

C. Report from the President-elect:

President-elect Joe Longley reported that he has proposed three president-elect task forces. One has already started, "The Financial Responsibility and Fiscal Control," and Lisa Blue is chair of the committee. The other two task forces, "Election" and "Transparency" will be announced at another date.

President-elect Longley reported that one of his projects will be to rejuvenate the office of General Counsel.

President-elect Longley discussed whether the executive director is appointed or elected by the board of directors. He reported that the State Bar Act states that the executive director shall be elected by a majority of the board of directors.

President-elect Longley reported that the Budget Committee will have its first meeting on Thursday, September 21. The committee will discuss the State Bar's budget process and the timeline for preparation of the fiscal year 2018-2019 budget. Budget packets will be furnished to the State Bar's Division and Department Directors on October 2, with a deadline completion date of October 16. Once budget data is received, the Finance Division will prepare and analyze the budget. The Budget Committee will meet again on Thursday, December 7, at the Texas Law Center in Austin. Division and Department Directors will attend this meeting to provide information about their particular areas of the budget. During this meeting, the Committee will finalize a proposed fiscal year 2018-2019 budget for presentation to the Executive Committee and to the Board at their respective January 2018 meetings. **[EXHIBIT B]**

D. Report from the Immediate Past President:

Immediate Past President Frank Stevenson reported that a new cohort of TOJI participants will start a three-week boot camp on October 2. The practice areas that the new cohort will focus on include: elder law, landlord/tenant issues, family law, consumer law, criminal defense, representing victims of domestic violence, representing the LGBT community, and representing the families of children with special needs. TOJI Director Anne-Marie Rabago was a speaker at this year's Legal Mapmaker program, where she talked to program participants about the services available to lawyers through the State Bar of Texas.

E. Policy Manual Subcommittee:

Director Philip Mack Furlow reported that there will be a meeting of the Policy Manual Subcommittee by teleconference following the Executive Committee Meeting. For the upcoming Board meeting, the Subcommittee will be bringing proposed Policy Manual revisions to the Board for action. The most important of these will be revisions regarding the new At-Large Director positions required by new legislation. The remaining proposed revisions, if passed by the Policy

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Manual Subcommittee, will relate to the timing of delivery of meeting materials prior to a Board meeting; the annual President's Award; and President and President-elect appointments.

F. Administration Committee:

Director Scott Stolley reported that he had two action items from two subcommittees of the Administration Committee. First, the Performance Measures and Strategic Planning Subcommittee, chaired by August Harris, has completed the required biennial update to the State Bar performance measures. In addition to routine updates to conform the performance measures with the most recent strategic plan, August and the Subcommittee improved the readability and usability of the document. [EXHIBIT C]

On behalf of subcommittee chair August Harris, Scott Stolley moved that the EC approve the proposed updated performance measures. Coming from a committee, no second was needed. Motion carried.

Secondly, Scott Stolley reported on the Employment/Salary/Evaluation Subcommittee, chaired by Ricky Gonzalez, reviewed and approved updated bylaws of the Texas Center for Legal Ethics. These updates require Executive Committee approval. Stolley related that the changes are non-substantive and include significant improvements to readability. [EXHIBIT D]

On behalf of subcommittee chair Ricky Gonzalez, Scott Stolley moved that the EC approve the proposed updates to the bylaws of the Texas Center for Legal Ethics. Coming from a committee, no second was needed. Motion carried.

G. Audit & Finance Committee:

Director Tim Mountz reported that the "Financial Highlights" document describes the major budget to actual variances – both positive and negative – for the period ending July 31, 2017. The amount of General Fund net revenues over expenditures budgeted for this point in the fiscal year was approximately \$309K and the actual net amount was approximately \$510K. The result was a positive net variance for the 2 months ending July 31 of \$202K. The firm approved by the Board in April 2015 to complete the annual internal compliance audit, Maxwell, Locke & Ritter, has decided it cannot continue to provide internal audit services due to the departure of key audit staff last year. As a result, the Audit and Finance Committee will discuss and vote during the September board meeting to issue a Request for Proposal (RFP) to audit firms that provide internal audit services. The Audit & Finance Committee will then ask the Board to accept the recommendation of the Committee. [EXHIBIT F]

The State Bar Board Policy Manual requires that the Bar issue an RFP for internal audit services every five years. The last RFP for audit services was issued in January 2015. The Audit and Finance Committee will vote to ask the Board during the September board meeting to delegate authority to the Committee to select and engage the audit firm prior to the January Board meeting. The Audit and Finance Committee will hold a teleconference meeting in October to review the responses to the RFP and select the audit firm. The Audit and Finance Committee will report to the full board on the selection in January. The internal audit report will be presented to the Audit & Finance Committee during its April meeting. The Board will be asked to accept the internal audit report during the April meeting.

H. Nominations and Elections Subcommittee:

Immediate Past Chair Joe Escobedo reported that the nominations process for President-elect will begin at the September Board meeting. The Committee will meet in Lubbock and start looking at individuals to consider as potential nominees for president-elect. Nominations have been invited through an advertisement in the September Bar Journal and through notices to local bars, sections, and committees. There are two attorneys who have declared their intention to seek candidacy by petition: Lisa Blue of Dallas, and Randy Sorrels of Houston. To become candidates, each must collect approximately 5,000 signatures and submit them by March 1st.

The election will begin on April 2 and end on May 1. If there are more than two candidates, there will be a runoff election in mid-May. If there is a runoff there will be an extra expense of \$70,000 to conduct another statewide election in addition to our general election costs of \$74,000. It has been suggested to the President-elect that he recommend an extra \$70,000 be included in the budget for next year to cover the costs of any potential runoff elections next year.

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Immediate Past President Frank Stevenson reported that the Committee has begun looking at various aspects of the rules pertaining to State Bar elections, including the timeframe for elections and whether the voting period should be shortened from 4 weeks to 2 weeks; how to change or even potentially eliminate current rules related to campaigning; and the timeframe for the nominations process.

Frank Stevenson reported that there are two items that were voted on by the full Nominations and Elections Subcommittee. The first item is a request to consider the allowance of electronic signatures for petition candidates for president-elect and director. Ann Greenberg's subcommittee studied the issue and determined that there were both legal and policy reasons why electronic signatures should not be allowed. A motion was made to keep the issue of electronic signatures pending in committee and that the issue be published in the Bar Journal for comment. The motion failed for a lack of a second. The subcommittee then approved a motion to deny the request to allow electronic signatures for petitions. That motion was approved by a vote of 8 to 1. The matter was subsequently presented to the full Nominations and Elections Subcommittee. A motion was made to deny the request for implementation of electronic signatures due to both legal and policy issues related to the request, and the motion was approved by a vote of 14-1.

Frank Stevenson reported on qualifications of bar members to run for director. The State Bar rules currently prohibit a member from running for director if they have ever been suspended from the practice of law. The Supreme Court asked the Bar to look at these rules and determine whether changes should be made and, specifically, to examine the rule that prohibits an attorney who has ever been suspended for discipline reasons from the practice of law from serving as a member of the Board.

After discussion and review, the Nominations Subcommittee unanimously agreed that the State Bar Rules should be updated to allow previously suspended lawyers to serve on the Board, but with several conditions in order to become eligible: 1) that 10 years or more shall have passed since the end of the disciplinary suspension; and 2) that the suspension be disclosed on a director's election petition and in campaign materials. [EXHIBIT G]

On behalf of the Executive Committee, Immediate Past President Frank Stevenson made a motion to approve the Nominations and Elections Subcommittee's recommended changes to the State Bar Rules regarding the qualifications of directors as contained in the meeting materials. Coming from a committee, no second was needed. Motion carried.

I. Discipline and Client Attorney Assistance:

Director Greg Sampson reported that the Chief Disciplinary Counsel (CDC) has begun the process of drafting proposed rules to implement the mandates of State Bar Sunset legislation regarding: referral by the CDC during the initial screening process to the Client Attorney Assistance Program (CAAP) of minor grievances for possible early resolution; the establishment of the CDC's Grievance Referral Program (GRP) in the disciplinary procedural rules and availability of the program before a matter reaches formal litigation; the ability of CDC to issue subpoenas and hold investigatory hearings during the investigation phase of the process and to enter into a negotiated sanction with the respondent before formal litigation; guidelines for imposing sanctions to be utilized by the district grievance committees and district courts; and a self-reporting rule requiring attorneys to report criminal convictions and any disciplinary action taken by another state bar against the attorney. The DCAAP Committee is meeting before the Board meeting and CDC will present the current draft of proposed rules to the Committee. Under the legislation, the CDC is required to propose rules and the Supreme Court is required to adopt rules to effect these changes by March 1, 2018. [EXHIBIT G]

J. Professional Development Subcommittee:

Staff Liaisons Hedy Bower and Sharon Sandle reported on Gary Nickelson's behalf that the Professional Development Subcommittee met jointly with the CLE Committee on August 23 to discuss new topics for webcasts and other events and to hear staff reports. TexasBarCLE is developing webcasts and online classes to assist attorneys and their clients with legal issues resulting from Hurricane Harvey. On Tuesday, September 5, TexasBarCLE presented a free webcast titled "Handling Hurricane and Disaster Claims." TexasBarBooks provides free digital versions of bar materials to attorneys doing pro bono work. The Law Practice Management Program added a free digital version of the publication "Bracing for Impact: A Practical Guide to Preparing for Disasters" to the LPM website in advance of the hurricane, and the LPM

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program is now working with TexasBarCLE to develop programs and materials to help attorneys recover from the hurricane and get their practices back up and running.

K. Insurance/Member Benefits Subcommittee:

Director Scott Rothenberg reported that this year the number of major medical enrollments in the Insurance Exchange is projected to grow by 12 percent. Open Enrollment presentations will be conducted in Austin, Dallas, Houston, and San Antonio. The administrator of the State Bar Private Insurance Exchange is working to launch an Association Health Plan. This is not a State Bar product but it will be available to all attorneys regardless of firm size, even solos.

The State Bar continues to have the most extensive member benefits offering in the nation. The program provides a wide array of discounts and services, and generates non-dues revenue to help with the deferral of dues increases. Last fiscal year revenue more than doubled, growing from \$383,003 to \$895,194.

As part of an ongoing initiative to increase member awareness and participation in the program, flyers for the program will be inserted in all CLE course books. A major undertaking of the subcommittee this year will be a deeply discounted website platform for our members, planned to launch by the end of this fiscal year.

For professional liability insurance (PLI), USI decided not to renew its partnership with the State Bar. This left Texas Lawyers Insurance Exchange (TLIE) as the sole partner provider. A new Agreement with TLIE as the exclusive provider will include a \$125k admin fee and \$25 per new enrollee. The subcommittee voted to amend the Bar's partnership agreement with practice management provider Clio for a one-year exclusive term with a \$75k Admin fee in addition to royalties of \$35k+.

L. Section Representatives to the Board Committee:

Director Audrey Moorehead reported that there was a discussion of board advisors and defining their roles.

M. Supreme Court Liaison:

Justice Johnson is monitoring requests from those affected in Houston and the Court has issued several orders in response to the needs arising from Hurricane Harvey. The Court is scheduled to sit at the University of Houston Law Center.

N. Texas Young Lawyers Association:

TYLA President Baili Rhodes reported on the many projects that the TYLA board is working on: "Teach Safe, Learn Safe, Be Safe; domestic violence; translating guides into Spanish; and "Serving the Underserved." TYLA produced quick tip sheets for emergency response to Hurricane Harvey: "How to Hire A Contractor," "Lost Documents During A Disaster," "Employment During National Disasters," "Know Your FEMA Rights," and "How to Enroll Your Child in School."

O. Report from the Interim Executive Director:

John Sirman thanked the State Bar staff and Board Directors for their response and efforts toward Hurricane Harvey relief.

There being no further business, the meeting was adjourned at 12:07 pm.

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